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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,008	10/16/2003	Michael J. Johannes	P06431US00	7403
22885	7590	08/24/2004	EXAMINER	
MCKEE, VOORHEES & SEASE, P.L.C. 801 GRAND AVENUE SUITE 3200 DES MOINES, IA 50309-2721				HUYNH, KHOA D
ART UNIT		PAPER NUMBER		
				3751

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/687,008	JOHANNES, MICHAEL J.
	Examiner Khoa D. Huynh	Art Unit 3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 16 October 2003.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/16/03.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Objection***

1. Claim 5 is objected to because the recitation "the lagoon basin" should read --the pool basin--. Correction is suggested.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5 and 8-14, as presently understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Gustafsson (4028750) in view of Chamness (5546615).

Regarding claim 11, the Gustafsson reference discloses a cover for an outdoor swimming pool. The cover includes a plurality of panels (12), each having an upper layer (about 21), a lower layer (about 10) and a cell (13) sandwiched between the upper and the lower layers. Each of the panels also has a lateral layer (the extending portion of 10 and 21), and each of the lateral layers has an upper surface and a lower surface. As schematically shown in Figure 6, each of the plurality of panels has pairs of the lateral layers thereof welded to one another (col. 3, line 53) to form a singular blanket. The cover also

includes a plurality of holes (15 or 15a) formed in the lateral layers for permitting water to drain through the holes from the above the blanket. It is obviously that these holes can also permit gases to rise from the fluid within the pool upwardly through the holes to above the blanket.

All functional implications and statements of intended use have been fully considered. They, however, are deemed not to impose any structural limitations distinguishable over the Gustafsson cover which is capable of being used to cover a lagoon having a pool basin as recited in the preamble.

Even though the Gustafsson reference remains silent as to whether or not the cell is an insulation material; attention, however, is directed to the Chamness reference which discloses a cover for a pool having a plurality of panels (20), each having an upper layer (about 22), a lower layer (about 24) and an insulation material (34) sandwiched between the upper and the lower layers. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Gustafsson cover by employing an insulation material (if not already), in view of Chamness, in order to provide a cover that can reduce loss of heat from the pool water through thermal radiation.

Regarding claims 12-14, as schematically shown in Figure 6, the pairs of lateral layers are welded to one another in an overlapping relationship that includes the upper surface of one of the lateral layers contacted with the lower surface of the other of the lateral layers.

Regarding claims 1-5 and 8-10, the method as claimed would be inherent during the normal use and operation of the modified Gustafsson cover.

4. Claims 6, 7, 15 and 16, as presently understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Gustafsson (as discussed above) in view of Morgan (5400549).

Regarding claims 15 and 16, the modified Gustafsson reference DIFFERS in that it does not specifically disclose that the cover is anchored in a trench by its edge as claimed. Attention, however, is directed to the Morgan reference which discloses an insulated pond cover that is secured by an anchoring trench (col. 1, lines 10-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified Gustafsson cover by anchoring it in a trench, in view of the teaching of Morgan, to provide a reliable anchoring mechanism that is capable of holding the cover in place.

Regarding claims 6 and 7, the method as claimed would be inherent during the normal use and operation of the modified Gustafsson cover.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Aine was cited to show an insulated swimming pool cover having a plurality of panel connected together by heat sealing or RF sealing. Brown was cited to show a pool cover that comprises a single panel or a plurality of interconnected panels. Dial et al. was cited to show a cover that is secured by anchoring bolt in a trench.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (703) 306-5483. The examiner can normally be reached on M-F (7:00-4:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoa D. Huynh  
Patent Examiner  
Art Unit 3751

HK  
08/22/04